IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

OP.No. 6629 of 2001(L)

PETITIONER:

K. J. JOSEPH, PROPRIETOR, INTERNATIONAL TRADING CORPORATION, MUHAMMA, ALAPPUZHA DIST.

BY ADV. SRI.V.P.SUKUMAR

RESPONDENTS:

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1. THE SALES TAX OFFICER, SALES TAX OFFICE, CHERTHALA.

2. THE TAHSILDAR, CHERTHALA.

3. THE COMMISSIONER OF COMMERCIAL TAXES, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. K.P. PRADEEP

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 27/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP10929 OF 2001& CMP 32723/01 IN CMP 10929 IN OP 6629 OF 2001

DISMISSED

27.11.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE CIRCULAR DATED 21.8.1999 ISSUED BY THE THIRD RESPONDENT.

EXT.P2 TRUE COPY OF THE ORDER DSATED 15.3.2000 PASSED BY THE FIRST RESPONDENT.

EXT.P3 TRUE COPY OF THE ORDER DATED 15.3.2000 PASSED BY THE FIRST RESPONDENT IN RESPECT OF 1993-94

EXT.P4 TRUE COPY OF THE LETTER DATED 20.3.2000 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.

EXT.P5 TRUE COPY OF THE LETTER DATED 24.11.2000 SENT BY THE FIRST RESPONDENT TO THE SECOND RESPONDENT.

EXT.P6 TRUE COPY OF THE RR NOTICE DATED 26.9.1994 FOR THE YEAR 1988-89 ISSUED BY THE 2ND RESPONDENT.

EXT.P7 TRUE COPY OF THE RR NOTICE DSATED 22.10.1998 FOR THE YEAR 1993-94 ISSUED BY THE 2ND RESPONDENT.

EXT.P8 TRUE COPY OF THE LETTER DATED 17.1.2001 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.

EXT.P9 TRUE COPY OF THE NOTICE DSATED 23.1.2001 RECEIVED BY THE PETITIONER FROM THE FIRST RESPONDENT.

EXT.P10 TRUE COPY OF THE NOTICE DSATED 27.1.2001 ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT.

EXT.P11 TRUE COPY OF THE LETTER DATED 5.2.2001 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.

EXT.P12 TRUE COPY OF THE LETTER DSATED 8.2.2001 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.

EXT.P13 TRUE COPY OF THE RECEIPT DATED 22.2.2001 ISSUED TO THE PETITIONER BY THE VILLAGE OFFICER, THANNEERMUKKOM.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

O.P. NO. 6629 OF 2001

Dated this the 27th day of November, 2007

JUDGMENT

Petitioner applied for amnesty benefit under Section 23A of the KGST Act introduced in April, 1999, providing for 60% rebate on interest, if tax with 40% of the interest is paid before 31.12.1999, which was extended till 20.3.2000. It is conceded that petitioner has made application offering payment under amnesty scheme before 20.3.2000. Exts. P2 and P3 are intimation letters granting benefit to the petitioner for the assessment years 1988-89 and 1993-94. The interest calculated by the Officer was against the scheme and therefore petitioner applied for modification of Exts. P2 and P3. While making application for rectification petitioner made payment in accordance with his calculation and according to him such payment was sufficient to discharge the liability under the Amnesty Scheme. It is seen that the Officer did not pass orders on petitioner's rectification application in time but issued Ext. P10 on 27.1.2001. It is clear from Ext.P10 that the assessing officer has committed substantial mistakes in the original

calculation because additional liability over the amount paid by the petitioner is reworked at Rs. 1153/-. Even though counsel for the petitioner pointed out mistakes in calculation of interest in Ext.P10 also, I do not think this Court should waste time on this trivial matter, because the amount involved is as low as Rs. 1153/-. Petitioner has already paid an amount of Rs. 35,000/- in recovery proceedings after withdrawal of the amnesty benefit. In view of the payment made by the petitioner under the amnesty scheme, and since the payment covers almost all the liability except the above small amount on which also there is dispute, I declare that petitioner is entitled to amnesty benefit applied for and initially granted by the Officer. O.P. is accordingly allowed in part directing respondents to adjust Rs. 1153/- without any further interest from out of the recovered amount from the petitioner and grant refund or adjust the balance amount towards liability, if any, standing in the petitioner's account. In view of the above direction, recovery proceedings will stand quashed.

(C.N. RAMACHANDRAN NAIR)
Judge